

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

|   |             |   |                              |
|---|-------------|---|------------------------------|
| <hr/>   |             | ) |                              |
| Jenny Rubin, et al.                           |             | ) |                              |
|   | Plaintiffs, | ) |                              |
|   |             | ) |                              |
| v.  |             | ) | CIVIL ACTION NO. 01-1655-RCL |
|   |             | ) |                              |
| The Islamic Republic of Iran, et al.          |             | ) |                              |
|   |             | ) |                              |
|   | Defendants. | ) |                              |
| <hr/>   |             | ) |                              |
| Susan Weinstein, et al.                       |             | ) |                              |
|   | Plaintiffs, | ) |                              |
|   |             | ) |                              |
| v.  |             | ) | CIVIL ACTION NO. 00-2601-RCL |
|   |             | ) |                              |
| The Islamic Republic of Iran, et al.          |             | ) |                              |
|   |             | ) |                              |
|   | Defendants. | ) |                              |
| <hr/>   |             | ) |                              |
| Seth Charles Ben Haim, et al.                 |             | ) |                              |
|   | Plaintiffs, | ) |                              |
|   |             | ) |                              |
| v.  |             | ) | CIVIL ACTION NO. 02-1811-RCL |
|   |             | ) | CIVIL ACTION NO. 08-520-RCL  |
|   |             | ) |                              |
| The Islamic Republic of Iran, et al.          |             | ) |                              |
|   |             | ) |                              |
|   | Defendants. | ) |                              |
| <hr/>   |             | ) |                              |
| Ruth Calderon-Cardona, et al.                 |             | ) |                              |
|   | Plaintiffs, | ) |                              |
|   |             | ) |                              |
| v.  |             | ) | MISC. NO. 14-648-RCL         |
|   |             | ) |                              |
| Democratic People's Republic of Korea, et al. |             | ) |                              |
|   |             | ) |                              |
|   | Defendants. | ) |                              |
| <hr/>   |             | ) |                              |

|                                      |   |                              |
|--------------------------------------|---|------------------------------|
| Mary Nell Wyatt, et al.              | ) |                              |
|                                      | ) |                              |
| Plaintiffs,                          | ) |                              |
|                                      | ) |                              |
| v.                                   | ) | CIVIL ACTION NO. 08-502-RCL  |
|                                      | ) |                              |
| Syrian Arab Republic, et al.         | ) |                              |
|                                      | ) |                              |
| Defendants.                          | ) |                              |
|                                      | ) |                              |
| Shaul Stern, et al.                  | ) |                              |
|                                      | ) |                              |
| Plaintiffs,                          | ) |                              |
|                                      | ) |                              |
| v.                                   | ) | CIVIL ACTION NO. 00-2602-RCL |
|                                      | ) |                              |
| The Islamic Republic of Iran, et al. | ) |                              |
|                                      | ) |                              |
| Defendants.                          | ) |                              |
|                                      | ) |                              |

**NON-PARTY ICANN’S OPPOSITION TO PLAINTIFFS’ MOTION FOR  
ENLARGEMENT OF TIME TO RESPOND TO MOTION  
TO QUASH WRITS OF ATTACHMENT**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure and District of Columbia Local Civil Rule 7(m), non-party Internet Corporation for Assigned Names and Numbers (“ICANN”) hereby opposes Plaintiffs’ Motion for an Enlargement of Time (“Motion”) filed in the above-entitled actions.

**I. INTRODUCTION**

On June 24, 2014, Plaintiffs issued to ICANN seven writs of attachment (“Writs of Attachment”) and seven subpoenas *duces tecum* (“Subpoenas”) seeking to attach country code top-level domains (“ccTLDs”) signifying the countries of Iran, Syria and North Korea. Since issuance of Plaintiffs’ Writs of Attachment, Plaintiffs have insisted that ICANN move quickly. ICANN did just that by filing and serving the required responses, on July 28, 2014, and filing Motions to Quash the Writs of Attachment a day later.

Now, Plaintiffs want to slow things down to accommodate vacation schedules, evaluate the legal issues surrounding the Writs of Attachment and retain experts to help Plaintiffs understand ICANN and the relevant ccTLDs. ICANN has agreed to provide Plaintiffs with a three-week extension, which is commensurate with the extension Plaintiffs' provided ICANN in responding to the Writs of Attachment and Subpoenas. In addition, ICANN offered to provide Plaintiffs with additional time if Plaintiffs were willing to discuss a period of time short of the six-week extension Plaintiffs seek with this Motion. Plaintiff refused to negotiate, refused to discuss the matter further and, instead, filed this Motion seeking a total of nine weeks to respond to ICANN's Motions to Quash, requesting that the responses come due on September 30, 2014.

Plaintiffs alone chose the timing of the Writs of Attachment. Plaintiffs alone issued the Writs of Attachment without seeking a dialogue with ICANN about the relevant ccTLDs. And Plaintiffs alone have refused to negotiate a reasonable response date to ICANN's Motions to Quash. The Court should deny Plaintiffs' Motion for all of these reasons, as well as the fact that the extension Plaintiffs are seeking would prejudice ICANN. But ICANN remains willing to stipulate to a response date of September 12, 2014 with ICANN's reply due two weeks later.

## **II. RELEVANT BACKGROUND**

Plaintiffs hold default judgments against the governments of Iran, Syria and North Korea (the "defendants") in seven different actions. With their Writs of Attachment, Plaintiffs seek to attach the .IR, .SY and .KP ccTLDs, related non-ASCII ccTLDs, and supporting IP addresses (collectively, the ".IR, .SY and .KP ccTLDs"), all of which represent a space on the Internet for use by the citizens of Iran, Syria and North Korea. Plaintiffs issued these Writs of Attachment out of a belief that ICANN – a public benefit nonprofit corporation tasked with coordinating the

Internet's domain name system – “holds” the .IR, .SY and .KP ccTLDs and can transfer them to Plaintiffs. (Motion at 2.)

Because ICANN's deadline for responding to the Writs of Attachment and Subpoenas was only 10 days, ICANN requested a 21-day extension from Plaintiffs. (Declaration of Eric P. Enson (“Enson Decl.”) at ¶ 3, Ex. A.) Plaintiffs complained that three weeks was “too long” to delay these attachment proceedings, but eventually agreed to the extension on the day ICANN's responses were due. (*Id.*)

On July 28, 2014, ICANN filed its responses to the Writs of Attachment certifying, under oath, that ICANN is not indebted to the defendants in any way and that ICANN does not hold any “goods, chattels, or credits” of the defendants. (*Id.* at ¶ 4.) ICANN also served Plaintiffs with objections and responses to the Subpoenas. (*Id.*) The next day, ICANN filed its Motions to Quash the Writs of Attachment because ICANN does not possess any property of the defendants that can be attached. (*Id.*)

On July 31, 2014, Plaintiffs' counsel requested a six-week extension to respond to the Motions to Quash, making the responses due on September 30, 2014. (*Id.* at ¶ 5.) The next day, ICANN's counsel responded to the request by offering a three-week extension, but inviting further discussion on the topic. (*Id.* at ¶ 6, Ex. B.) On August 2, 2014, Plaintiff's counsel responded by accusing ICANN of “sloganeering,” “being difficult,” and calling counsel “downright rude.” (*Id.* at ¶ 7, Ex. C.) Despite this, ICANN's counsel invited Plaintiffs counsel – in a telephone discussion and in writing – to make a counterproposal somewhere between the six-week extension requested by Plaintiffs and the three-week extension offered by ICANN. (*Id.* at ¶ 8, Ex. D.)

Plaintiffs never responded to ICANN's offer. (*Id.* at ¶ 9.) Instead, without meeting and conferring with ICANN, Plaintiffs filed this Motion seeking a response date of September 30, 2014. (*Id.* at ¶ 10.)

### III. ARGUMENT

ICANN recognizes that extensions of the sort sought by Plaintiffs are common, frequently granted and usually allow for better briefing and more efficient resolutions. Indeed, ICANN is willing to meet Plaintiffs in the middle and provide an extension to September 12, 2014. But in ICANN's view the over six-week extension sought by Plaintiffs is simply too long and Plaintiffs' Motion should be denied, for several reasons.

***Prejudice to ICANN.*** Contrary to Plaintiffs' claims, ICANN is prejudiced with an unreasonable delay in these proceedings. ICANN serves the global Internet community. This community expects that ICANN will resolve disputes, such as the one at hand, in a timely and efficient manner so that ICANN may focus on its mission of protecting the stability, integrity, and interoperability of the Internet's domain name system. Unreasonably delaying resolution of ICANN's Motions to Quash diverts ICANN's attention and resources from this mission. In addition, the Writs of Attachment place certain legal responsibilities on ICANN with respect to the .IR, .SY and .KP ccTLDs. While ICANN will certainly comply with its obligations, unreasonably extending the time a non-party, like ICANN, must monitor, report and abide by such obligations is unduly burdensome and prejudicial.

***Plaintiffs' justifications for delay are not compelling.*** Plaintiffs provide assorted reasons for why they need the requested extension, such as vacations, novel issues of law, case administration difficulties and locating experts to assist Plaintiffs in understanding ICANN and the .IR, .SY and .KP ccTLDs. (Motion at 4-5.) All of these purported justifications boil down to

a lack of preparedness for dealing with the timing and legal matters associated with the Writs of Attachment. When deciding whether to extend deadlines, courts look unfavorably upon the kinds of justifications Plaintiffs have offered. *Yancick v. Hanna Steel Corp.*, 653 F.3d 532, 539 (7th Cir. 2011) (finding lack of preparedness was not good cause for enlarging time and noting that “[i]n exercising discretion regarding enlargements of time, courts should be mindful that the rules are intended to force parties and their attorneys to be diligent in prosecuting their causes of action.”).

***Plaintiffs failed to meet and confer with ICANN.*** District of Columbia Local Civil Rule 7(m) requires that “[b]efore filing any nondispositive motion in a civil action, counsel shall discuss the anticipated motion with opposing counsel in a good-faith effort to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement.” This Court has denied such motions for a party’s failure to comply with Local Civil Rule 7(m). *See, e.g., Ellipso, Inc. v. Mann*, 460 F. Supp. 2d 99, 102 (D.D.C. 2006). Here, however, Plaintiffs refused to even discuss an extension that made their response due before September 30. In addition, Plaintiffs failed to notify ICANN that they would be filing this Motion. Had Plaintiffs engaged with ICANN in good faith or met and conferred before filing this Motion, a compromise may have been reached and the expense of this Motion could have been avoided. As a result of Plaintiffs’ failure to confer in good faith and their noncompliance with Local Civil Rule 7(m), their Motion should be denied.

#### **IV. CONCLUSION**

For the foregoing reasons, ICANN respectfully requests that the Court deny Plaintiffs’ Motion and enter an Order enlarging the period of time for Plaintiffs to respond to ICANN’s

Motions to Quash until September 12, 2014 with ICANN's reply due on September 28, 2014. A [Proposed] Order is attached.

Dated: August 18, 2014

Respectfully submitted,

*/s/ Noel J. Francisco*

---

Noel J. Francisco (D.C. Bar No. 464752)  
Tara Lynn R. Zurawski (DC Bar No. 980960)  
JONES DAY  
51 Louisiana Avenue, NW  
Washington, DC 20001  
Tel: (202) 879-3939  
Fax: (202) 626-1700  
Email: nfrancisco@jonesday.com  
Email: tzurawski@jonesday.com

Jeffrey A. LeVee (admitted *pro hac vice*)  
Eric P. Enson (admitted *pro hac vice*)  
JONES DAY  
555 South Flower Street, 50th Floor  
Los Angeles, CA 90071  
Telephone: (213) 243-2304  
Facsimile: (213) 243-2539  
Email: jlevee@jonesday.com  
Email: epenson@jonesday.com

*Counsel for Non-Party Internet Corporation for  
Assigned Names and Numbers*

**CERTIFICATE OF SERVICE**

I certify that on August 18, 2014, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, causing it to be served on all registered users to be noticed in this matter, including:

Robert J. Tolchin  
Berkman Law Office, LLC  
111 Livingston Street, Suite 1928  
Brooklyn, NY 11201  
*Counsel for Plaintiff*

Dated: August 18, 2014

/s/ Noel J. Francisco

Noel J. Francisco (D.C. Bar No. 464752)  
Tara Lynn R. Zurawski (DC Bar No. 980960)  
JONES DAY  
51 Louisiana Avenue, NW  
Washington, DC 20001  
Tel: (202) 879-3939  
Fax: (202) 626-1700  
Email: nfrancisco@jonesday.com  
Email: tzurawski@jonesday.com

Jeffrey A. LeVee (admitted *pro hac vice*)  
Eric P. Enson (admitted *pro hac vice*)  
JONES DAY  
555 South Flower Street, 50th Floor  
Los Angeles, CA 90071  
Telephone: (213) 243-2304  
Facsimile: (213) 243-2539  
Email: jlevee@jonesday.com  
Email: epenson@jonesday.com

*Counsel for Non-Party Internet Corporation for  
Assigned Names and Numbers*



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

|  |   |                              |
|--|---|------------------------------|
| _____<br>Jenny Rubin, et al.                     | ) |                              |
|  | ) |                              |
| Plaintiffs,                                      | ) |                              |
|  | ) |                              |
| v.   | ) | CIVIL ACTION NO. 01-1655-RCL |
|  | ) |                              |
| The Islamic Republic of Iran, et al.             | ) |                              |
|  | ) |                              |
| Defendants.                                      | ) |                              |
| _____<br>Susan Weinstein, et al.                 | ) |                              |
|  | ) |                              |
| Plaintiffs,                                      | ) |                              |
|  | ) |                              |
| v.   | ) | CIVIL ACTION NO. 00-2601-RCL |
|  | ) |                              |
| The Islamic Republic of Iran, et al.             | ) |                              |
|  | ) |                              |
| Defendants.                                      | ) |                              |
| _____<br>Seth Charles Ben Haim, et al.           | ) |                              |
|  | ) |                              |
| Plaintiffs,                                      | ) |                              |
|  | ) |                              |
| v.   | ) | CIVIL ACTION NO. 02-1811-RCL |
|  | ) | CIVIL ACTION NO. 08-520-RCL  |
| The Islamic Republic of Iran, et al.             | ) |                              |
|  | ) |                              |
| Defendants.                                      | ) |                              |
| _____<br>Ruth Calderon-Cardona, et al.           | ) |                              |
|  | ) |                              |
| Plaintiffs,                                      | ) |                              |
|  | ) |                              |
| v.   | ) | MISC. NO. 14-648-RCL         |
|  | ) |                              |
| Democratic People's Republic of Korea, et<br>al. | ) |                              |
|  | ) |                              |
| Defendants.                                      | ) |                              |
| _____  | ) |                              |

|                                      |   |                              |
|--------------------------------------|---|------------------------------|
| _____                                | ) |                              |
| Mary Nell Wyatt, et al.              | ) |                              |
|                                      | ) |                              |
| Plaintiffs,                          | ) |                              |
|                                      | ) |                              |
| v.                                   | ) | CIVIL ACTION NO. 08-502-RCL  |
|                                      | ) |                              |
| Syrian Arab Republic, et al.         | ) |                              |
|                                      | ) |                              |
| Defendants.                          | ) |                              |
| _____                                | ) |                              |
| Shaul Stern, et al.                  | ) |                              |
|                                      | ) |                              |
| Plaintiffs,                          | ) |                              |
|                                      | ) |                              |
| v.                                   | ) | CIVIL ACTION NO. 00-2602-RCL |
|                                      | ) |                              |
| The Islamic Republic of Iran, et al. | ) |                              |
|                                      | ) |                              |
| Defendants.                          | ) |                              |
| _____                                | ) |                              |

**DECLARATION OF ERIC P. ENSON IN SUPPORT OF NON-PARTY ICANN’S  
OPPOSITION TO PLAINTIFFS’ MOTION FOR ENLARGEMENT OF TIME TO  
RESPOND TO MOTION TO QUASH WRITS OF ATTACHMENT**

I, Eric P. Enson, declare and affirm as follows:

1. I am a partner with the law firm of Jones Day, a member of the California Bar and I have been admitted *pro hac vice* in these matters. Jones Day is counsel of record to the Internet Corporation for Assigned Names and Numbers (“ICANN”) in these actions. I have personal knowledge of the matters set forth herein and am competent to testify to those matters. I make this declaration in support of Non-Party ICANN’s Opposition to Plaintiffs’ Motion for Enlargement of Time to Respond to Motion to Quash Writs of Attachment (“Motion”).
2. On June 24, 2014, Plaintiffs issued writs of attachment (“Writs of Attachment”) and subpoenas *duces tecum* (“Subpoenas”) in the following seven matters: (1) *Rubin, et al. v. Islamic Republic of Iran, et al.*, Case No. 01-1655-RCL; (2) *Haim, et al. v. Islamic Republic of*

*Iran, et al.*, Case No. 02-1811-RCL; (3) *Haim, et al. v. Islamic Republic of Iran, et al.*, Case No. 08-520-RCL; (4) *Stern, et al. v. Islamic Republic of Iran, et al.*, Case No. 00-2602-RCL; (5) *Weinstein, et al. v. Islamic Republic of Iran, et al.*, Case No. 00-2601-RCL; (6) *Wyatt, et al. v. Syrian Arab Republic, et al.*, Case No. 08-502-RCL; and (7) *Calderon-Cardona, et al. v. Democratic People's Republic of North Korea, et al.*, Case No. 14-mc-648-RCL.

3. On July 1, 2014, I sent an email to Plaintiffs' counsel, Robert Tolchin of the Berkman Law Office, LLC, requesting a 21-day extension in ICANN's time to respond to the Writs of Attachment and Subpoenas. On July 2, 2014, Mr. Tolchin responded by email. Attached hereto as Exhibit A is a true and correct copy of my July 1, 2014 email to Mr. Tolchin and his July 2, 2014 response. Mr. Tolchin ultimately agreed to ICANN's requested extension and proposed consent motions, on July 7, 2014.

4. On July 28, 2014, ICANN filed its responses to the Writs of Attachment certifying, under oath, that ICANN is not indebted to the defendants in any way and that ICANN does not hold any "goods, chattels, or credits" of the defendants, and ICANN served Plaintiffs with objections and responses to the Subpoenas. On July 29, 2014, ICANN filed Motions to Quash the Writs of Attachment.

5. On July 31, 2014, Plaintiffs' counsel, Dina Rovner of the Shurat HaDin Israel Law Center, called me and requested a six-week extension in Plaintiffs' time to respond to the Motions to Quash, making them due on September 30, 2014.

6. On August 1, 2014, I sent Mr. Tolchin and Ms. Rovner an email responding to Plaintiffs' request for an extension offering Plaintiffs a three-week extension, for the reasons set forth in my email. Attached hereto as Exhibit B is a true and correct copy of my August 1, 2014 email to Mr. Tolchin and Mr. Rovner.

7. On August 2, 2014, Mr. Tolchin sent me an email responding to my August 1, 2014 email. Attached hereto as Exhibit C is a true and correct copy of Mr. Tolchin's August 2, 2014 email to me.

8. On August 4, 2014, I spoke with Ms. Rovner by telephone about the extension and explained that ICANN may be willing to provide Plaintiffs with more than a three-week extension, and I suggested that Plaintiffs make a counterproposal somewhere between the six-week extension requested by Plaintiffs and the three-week extension offered by ICANN. I made the same suggestion of a counterproposal to Mr. Tolchin in an August 4, 2014 email to him in response to his August 2, 2014 email. Attached hereto as Exhibit D is a true and correct copy of my August 4, 2014 email to Mr. Tolchin.

9. Neither Mr. Tolchin nor Mr. Rovner responded to my request for a counterproposal.

10. Plaintiffs filed this Motion without notifying ICANN of their intent to file the Motion or requesting to meet and confer about the Motion.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct.

This declaration was signed on August 14, 2014 at Los Angeles, California.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Eric P. Enson

# Exhibit A



Subject:  
Re: Subpoenas and Writs of Attachment to ICANN  
From:  
Robert Tolchin  
07/02/2014 05:54 PM  
To:  
Eric P. Enson  
Cc:  
Robert Tolchin  
Hide Details  
From: Robert Tolchin <rtolchin@berkmanlaw.com>

To: "Eric P. Enson" <epenson@jonesday.com>,  
Cc: Robert Tolchin <rjt.berkman@gmail.com>  
History: This message has been replied to.

Eric,

I apologize for taking so long to respond. I'm sure you realize that given how many cases are involved I have to report to and get clearance from quite a group of people.

Anyway, some questions about your request:

- 1) There's a feeling that the 3 weeks you're requesting is too long. Would you consider less?
- 2) Regarding the subpoenas I would hate to enlarge your time to respond only to get a bunch of objections and no documents. Are you seeking an enlargement to comply or just to serve objections? If the latter why not serve your objections now and we can get right to work on the motion to compel.
- 3) We're concerned that the deadlines for responding to the writ of attachment are statutory. Do you have authority for the proposition that we can enlarge them without it being "so-ordered"?
- 4) If we do agree to the enlargement please confirm that you would reciprocate with any enlargements that we would need to respond to your response, etc.

--Bob Tolchin

Sent from my iPhone

On Jul 1, 2014, at 3:09 PM, "Eric P. Enson" <[epenson@jonesday.com](mailto:epenson@jonesday.com)> wrote:

Robert,

I am counsel for the Internet Corporation for Assigned Names and Numbers and will be handling ICANN's responses to the writs of attachment and subpoenas you served on ICANN. By my math, ICANN's responses to the subpoenas and writs are due on July 7, 2014. As I am sure you know, ICANN just completed its London meeting and a number of ICANN representatives are not yet back in the

United States or back to work. Given this, as well as the July 4th holiday, I would like to request a three-week extension in the time for ICANN to respond. This extension would make the responses due on July 28, 2014. Please let me know whether you agree to this timetable, as soon as you can. Thank you and let me know if you would like to discuss.

Eric

Eric P. Enson  
JONES DAY® - One Firm Worldwide  
555 S. Flower St., 50th Floor  
Los Angeles, CA. 90071  
Office +213.243.2304  
Mobile +310.503.1774  
Email [epenson@jonesday.com](mailto:epenson@jonesday.com)

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====

# Exhibit B



**Subject: ICANN Motion to Quash Response Date**

**From: Eric P. Enson**  
Extension: 32304

08/01/2014 01:17 PM

**To: Robert Tolchin, Rovner Dina, Robert Tolchin**

---

Bob and Dina,

I have discussed with ICANN your requested extension in the time to respond to ICANN's motions to quash. Unfortunately, ICANN cannot provide you with the requested extension to September 30, 2014. As I mentioned, ICANN is interested in resolving this matter as soon as possible. But ICANN is willing to extend your response date by 21 days, the same extension ICANN received for its responses to the writs of attachment. I believe this would make Plaintiffs' responses to ICANN's motions due on September 2, 2014. In return, ICANN would like a 7-day extension in its time to file a reply brief. Please let me know if you would like to discuss. Thank you.

Eric

Eric P. Enson  
**JONES DAY® - One Firm Worldwide**  
555 S. Flower St., 50th Floor  
Los Angeles, CA. 90071  
Office +213.243.2304  
Mobile +310.503.1774  
Email [epenson@jonesday.com](mailto:epenson@jonesday.com)

=====  
This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.  
=====

# Exhibit C

Subject:

Re: ICANN Motion to Quash Response Date

From:

Robert Tolchin

08/02/2014 08:06 PM

To:

Eric P. Enson

Cc:

Rovner Dina, Leitner, Meir Katz, Nitsana Darshan-Leitner

Hide Details

From: Robert Tolchin <rtolchin@berkmanlaw.com>

To: "Eric P. Enson" <epenson@jonesday.com>,

Cc: Rovner Dina <dsrovner@gmail.com>, Leitner <nitsanad@zahav.net.il>, Meir Katz <mkatz@berkmanlaw.com>, Nitsana Darshan-Leitner <nitsanaleitner@gmail.com>

History: This message has been replied to and forwarded.

There is no connection between the time you asked for and received to file your motion and the time we would like to take to respond to it. That's like me insisting that you eat Grape Nuts tonight because I ate Grape Nuts tonight.

We have told you that we wish to accommodate vacation schedules, so your (or your client's, if they're really driving this) insistence on a return date in August when we have already told you that relevant people will be on vacation then is, bluntly, downright rude.

And your statement that "ICANN is interested in resolving this matter as soon as possible" is just sloganeering. The mere pendency of this matter does not harm or prejudice ICANN one bit, and if its pending for an extra month or two while you wait for us to file our brief that will create no extra costs or burden for ICANN.

I would urge you to please quit being difficult. It is unbecoming.

On Fri, Aug 1, 2014 at 4:17 PM, Eric P. Enson <epenson@jonesday.com> wrote:  
Bob and Dina,

I have discussed with ICANN your requested extension in the time to respond to ICANN's motions to quash. Unfortunately, ICANN cannot provide you with the requested extension to September 30, 2014. As I mentioned, ICANN is interested in resolving this matter as soon as possible. But ICANN is willing to extend your response date by 21 days, the same extension ICANN received for its responses to the writs of attachment. I believe this would make Plaintiffs' responses to ICANN's motions due on September 2, 2014. In return, ICANN would like a 7-day extension in its time to file a reply brief. Please let me know if you would like to discuss. Thank you.

Eric

Eric P. Enson

**JONES DAY® - One Firm Worldwide**

555 S. Flower St., 50th Floor

Los Angeles, CA. 90071

Office +213.243.2304

Mobile +310.503.1774  
Email [epenson@jonesday.com](mailto:epenson@jonesday.com)

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====

--

Robert J. Tolchin, Esq.  
THE BERKMAN LAW OFFICE, LLC  
111 Livingston Street, Suite 1928  
Brooklyn, New York 11201  
718-855-3627

# **Exhibit D**

**Subject:** Re: ICANN Motion to Quash Response Date   
**From:** Eric P. Enson  
Extension: 32304  
**To:** Robert Tolchin  
**Cc:** Rovner Dina, Meir Katz, Leitner, Nitsana Darshan-Leitner

---

08/04/2014 12:58 PM

Bob,

This is the second or third time you have questioned ICANN's good faith, so I think it is important to remind you of the history of this action and again explain ICANN's position. As an initial matter, Plaintiffs alone decided to issue the writs of attachment during the summer and in advance of summer vacations. Plaintiffs also decided to do so without engaging ICANN or attempting to have a dialogue about these ccTLDs, which may have avoided the time, expense and distraction of this litigation.

I requested a 21-day extension to the writs of attachment, and you told me that your clients felt three weeks was "too long" because they wanted to conclude these attachment proceedings quickly. You also stated that you wanted to move forward in a timely fashion to protect the priority of your "lien." You ultimately agreed to the extension, but you did so only after adding (on the day our responses were due) new terms regarding subpoena compliance and other issues to ensure that your "rights are not negatively affected."

Then, prior to filing ICANN's responses and motions to quash, I reached out to you in an effort to resolve this matter without motions practice. Based on our conversation, you asked for, and I gave you in writing, a detailed outline of our legal positions and citations to evidence that supported our positions. I also suggested that it might be efficient to extend the writ of attachment response dates so that we could discuss these matters further and ICANN could provide Plaintiffs with more information about these ccTLDs. To put it kindly (and ignoring your outbursts over the phone), you rejected this approach and forced ICANN to move forward with the filing of its responses and motions to quash.

After ICANN's filings, Plaintiffs realized that they failed to seek or obtain an extension in their time to file a motion to traverse, under DC Superior Court Rule 69-l(d). Accordingly, Plaintiffs sought from ICANN an after-the-fact extension to this deadline, which ICANN provided although it had nothing to gain from the stipulation. And ICANN did so even after you sent an offensive email, similar to the one below, attacking ICANN for what you incorrectly termed as "delay tactics."

Now, after your claims about moving forward in a timely fashion and avoiding delay, Plaintiffs want 9 weeks to oppose ICANN's motions to quash, making the opposition due on September 30, 2014. As I have mentioned before, ICANN is willing to provide a reasonable extension, to try to accommodate your vacation schedules, but ICANN cannot wait another two months to receive Plaintiffs' response to the motions to quash.

It is not a "slogan" to say that ICANN has a large community that expects ICANN to resolve these matters quickly. Nor is it false to say that ICANN may suffer prejudice by allowing these purported "liens" to languish. ICANN has not insisted that Plaintiffs' oppositions come due while Plaintiffs' counsel is vacationing. And ICANN has not insisted on a return date in August. ICANN has merely insisted that any extension be reasonable, aimed at resolving this matter in a timely fashion and not prejudice ICANN, which are exactly the same conditions you rightly applied to ICANN's request for an extension.

ICANN has offered Plaintiffs an extension to September 2, with a reply date of September 16. With all that your email below contains, it lacks any sort of counter-proposal. If you would like to make one, I will discuss it with ICANN. Thank you.

Eric

Eric P. Enson

**JONES DAY® - One Firm Worldwide**

555 S. Flower St., 50th Floor  
Los Angeles, CA. 90071  
Office +213.243.2304  
Mobile +310.503.1774  
Email [epenson@jonesday.com](mailto:epenson@jonesday.com)

Robert Tolchin

There is no connection between the time you as...

08/02/2014 08:06:54 PM

From: Robert Tolchin <[rtolchin@berkmanlaw.com](mailto:rtolchin@berkmanlaw.com)>  
To: "Eric P. Enson" <[epenson@jonesday.com](mailto:epenson@jonesday.com)>,  
Cc: Rovner Dina <[dsrovner@gmail.com](mailto:dsrovner@gmail.com)>, Leitner <[nitsanad@zahav.net.il](mailto:nitsanad@zahav.net.il)>, Meir Katz <[mkatz@berkmanlaw.com](mailto:mkatz@berkmanlaw.com)>, Nitsana Darshan-Leitner <[nitsanaleitner@gmail.com](mailto:nitsanaleitner@gmail.com)>  
Date: 08/02/2014 08:06 PM  
Subject: Re: ICANN Motion to Quash Response Date

---

There is no connection between the time you asked for and received to file your motion and the time we would like to take to respond to it. That's like me insisting that you eat Grape Nuts tonight because I ate Grape Nuts tonight.

We have told you that we wish to accommodate vacation schedules, so your (or your client's, if they're really driving this) insistence on a return date in August when we have already told you that relevant people will be on vacation then is, bluntly, downright rude.

And your statement that "ICANN is interested in resolving this matter as soon as possible" is just sloganeering. The mere pendency of this matter does not harm or prejudice ICANN one bit, and if its pending for an extra month or two while you wait for us to file our brief that will create no extra costs or burden for ICANN.

I would urge you to please quit being difficult. It is unbecoming.

On Fri, Aug 1, 2014 at 4:17 PM, Eric P. Enson <[epenson@jonesday.com](mailto:epenson@jonesday.com)> wrote:  
Bob and Dina,

I have discussed with ICANN your requested extension in the time to respond to ICANN's motions to quash. Unfortunately, ICANN cannot provide you with the requested extension to September 30, 2014. As I mentioned, ICANN is interested in resolving this matter as soon as possible. But ICANN is willing to extend your response date by 21 days, the same extension ICANN received for its responses to the writs of attachment. I believe this would make Plaintiffs' responses to ICANN's motions due on September 2, 2014. In return, ICANN would like a 7-day extension in its time to file a reply brief. Please let me know if you would like to discuss. Thank you.

Eric

Eric P. Enson

**JONES DAY® - One Firm Worldwide**  
555 S. Flower St., 50th Floor

Los Angeles, CA. 90071  
Office +213.243.2304  
Mobile +310.503.1774  
Email [epenson@jonesday.com](mailto:epenson@jonesday.com)

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====

--

Robert J. Tolchin, Esq.  
THE BERKMAN LAW OFFICE, LLC  
111 Livingston Street, Suite 1928  
Brooklyn, New York 11201  
718-855-3627

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====